

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GABRIEL JACOBO-ROSAS

Petitioner,

vs.

No. CV 21-00791 JCH/KBM

UNITED STATES,

Respondent.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on the pro se Writ of Habeas Corpus filed by Petitioner Gabriel Jacobo-Rosas (Doc. 1). The Court construes Petitioner's filing as a petition for writ of habeas corpus under 28 U.S.C. § 2241. The Court determines that the pro se Petition is deficient, as follows:

(1) Plaintiff has not paid the \$5 filing fee or filed an Application to Proceed in the District Court Without Prepaying Fees and Costs; and

(2) the pro se Petition is handwritten, is unsigned, and is not in proper federal form. Petitioner is a federal pretrial detainee at the Cibola County Detention Center. (Doc. 1 at 9). Petitioner's Petition alleges that New Mexico state officials have failed to post a surety bond with the New Mexico Secretary of State, because they have not posted the required bond, Santa Fe County police did not have jurisdiction to arrest him, and his detention is improper. (Doc. 1 at 1-3). Because Petitioner challenges the legality of his pretrial detention, the Court construes Petitioner's filing as a request for habeas corpus relief under 28 U.S.C. § 2241. *Preiser, Correction Commissioner v. Rodriguez*, 411 U.S. 475, 484 (1973); *Brace v. United States*, 634 F.3d 1167, 1169 (10th Cir. 2011). Petitioner's filing is not in proper form for a proceeding under § 2241.

Petitioner must cure the deficiencies if he wishes to pursue his claims. The deficiencies must be cured within thirty (30) days of entry of this Order. Petitioner must include the civil action number, CV 21-00791 JCH/KBM on all papers he files in this proceeding. If Petitioner fails to cure the deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that, within thirty (30) days of entry of this Order, Petitioner Gabriel Jacobo-Rosas cure the deficiencies by (1) paying the \$5 filing fee or submitting an Application to Proceed in the District Court Without Prepaying Fees and Costs and (2) filing a petition for writ of habeas corpus under 28 U.S.C. § 2241 in proper form.

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail to Plaintiff, together with a copy of this order, (1) two copies of an Application to Proceed in the District Court without Prepaying Fees and Costs under 28 U.S.C. § 1915, with instructions, and (2) a form petition for writ of habeas corpus under 28 U.S.C. § 2241, with instructions.



UNITED STATES MAGISTRATE JUDGE